

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 192

AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 24-5-25 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 25. Truth in Music Advertising

Sec. 1. As used in this chapter, "performing group" means a vocal or an instrumental group seeking to use the name of another group that has previously released a commercial sound recording under the name of the other group.

Sec. 2. As used in this chapter, "recording group" means a vocal or an instrumental group, at least one (1) of whose members has released a commercial sound recording under the group's name, and in which the member or members:

- (1) have a legal right by virtue of use or operation under the group's name;
- (2) have not abandoned the name; and
- (3) have not abandoned affiliation with the group.

Sec. 3. As used in this chapter, "sound recording" means a work that results from the placement on a material object of a series of musical, spoken, or other sounds regardless of the nature of the material object, such as a compact disc, cassette, tape, or phonograph record, in which the sounds are placed.

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Sec. 4. (a) Except as provided in subsection (b), a person, other than a media source that carries advertising or a press release for the performance or production, may not advertise or conduct a live musical performance or production in Indiana through actions that falsely, deceptively, or misleadingly imply the existence of an affiliation, a connection, or an association between a performing group and a recording group.

(b) This section does not apply if:

(1) the performing group is the authorized registrant and owner of a federal service mark for the recording group with the same name registered in the United States Patent and Trademark Office;

(2) at least one (1) member of the performing group was a member of the recording group and:

(A) has a legal right by virtue of use or operation under the group name;

(B) has not abandoned the name; and

(C) has not abandoned affiliation with the group;

(3) the live musical performance or production is identified in all advertising and promotion as a salute or tribute;

(4) the advertising does not relate to a live musical performance or production taking place in Indiana; or

(5) the performance or production is expressly authorized by the recording group.

Sec. 5. The attorney general or any aggrieved person may bring an action to enjoin a person from violating section 4 of this chapter. If an injunction is issued, the court may order the defendant to restore to any person in interest any money or property that was acquired by means of a violation of this chapter.

Sec. 6. A person who violates section 4 of this chapter commits a Class A infraction. Each performance or production in violation of section 4 of this chapter constitutes a separate violation.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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